

Attending was : RB, KJ, JR, CL, BP, TB and Staff: MM

## **Town of Lunenburg Conservation Commission**

Richard Bursch, Chair (RB)  
Jack Rabbitt, (JR)  
Bob Pease (BP)  
Tom Bertram (TB)  
Carl Luck (CL)  
Todd Dwyer (TD)  
Kenneth Jones (KJ)



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Matthew S. Marro, (MM)  
Conservation Agent

### **MINUTES**

Wednesday, August 3, 2016 7:00 PM regular meeting  
Ritter Memorial Building, 960 Massachusetts Avenue  
Lunenburg, MA 01462

#### **Call to Order The meeting was called to Order by Chair at 7 PM**

**Announcements** RB announced the confirmation of MM by the Board of Selectmen as a full time conservation administrator commencing August 15, 2016.

**Public Comment:** Dave Rodgers (DR) inquired as to the regulated no touch zones. RB explained both by-law zones (50 and 30 foot). DR asked how can docks be added at Townsend Harbor Road. RB noted the commission will only allow as a temporary structure there is no real disturbance. DR asked how they will fix docks into grass if there's no disturbance. KJ said stakes in the ground are commonly used. DR, isn't that disturbance? RB noted we work with Hickory Hills on all applications to ensure no disturbance. DR thanked the commission for the clarification.

TB- walks in woods Aug 28<sup>th</sup> (PUT ON WEBSITE) is being moved to the Lane property.

#### **Appointments/Hearings –commences at 7 PM**

1. **The Woodlands – Sandra Habe (SH) representing the Woodlands Note: Commissioners BP and TB recused themselves. BP was remaining in the room as he is a landowner in this issue.**

Documents used in consideration: Draft Request for a Determination by the Woodlands Group.

RB noted that MM, KJ and CL walked the site this past Monday. SH thanked the commission as the walk had some educational components and she was grateful for that and brought a draft RDA. SH noted that her impression was the commission wanted landscape as natural as possible. JR noted about kayaks on grass and spoke of keeping them off the ground. SH presented draft RDA MM feels vista pruning needs a more specific marking. CL noted mulch is to be clarified as that mulch is to promote revegetation, and not to stabilize the land. JR spoke of granite potential steps on banking. SH said other commission members had said to place no fishing signs and allow the section to grow in. KJ noted it was an area of high concern and should be limited. JR stressed recreational use. Joan Pease clarified that it was the area opposite of the boats for the other owners in attendance. Gwen Brush 100 Royal Fern noted there has been remediation with stone

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steps on other islands and maybe doing both might be better? RB noted that there was other access available and on those islands there was no other means of access and there has been organized erosion remediation done.

SH noted she can ask others on the property for alternate areas in the cove to fish and come back with that. RB asked if the paths were private. SH noted it was a common area open to all. JR noted a concern about other units clearing more common land. SH noted that it was one reason for coming forth was to plan for the access to the cove and limiting it potentially 3 Kayaks or canoes. Abutter from 15 wintergreen noted there are 12 units in that area and that if 3 per unit is allowed it will overcrowd and noted concern among other items that it could open the door to abuse the area. Tish Kilgore 104 Royal Fern had noted that there is an internal dispute and that it is for everyone's use.

Gwen Rush this area has existed for decade and noted her neighbors have a great deal of respect for the beauty and environment and will be kept up. RB noted that he has seen the development over the last 20 years and the woodlands has done a good job and reminded everyone the purpose of the RDA is to plan for future and balance. KJ nothing is egregious and feels a good plan can be made from the RDA and the open line of communication is a positive step.

SH noted that the site walk and the information learned is helping to form a positive plan Ed Wexlers noted it has looked the same and kept up for the 16 years he's been there. CL noted that the cove area has very few access points to the lagoon and that the point of the planning is to not allow expanded access rather allow for the naturalization of existing.

SH association is looking to organize Kayak racks to expand, however, away from the lake. JR noted for the last 20 years there has been 5 paths and if they work lets identify the 5 allow to continue with no further expansion without a separate filing. SH noted one access for a handicap individual that will be maintained and added to the plan details.

CL brought up the area that there are many kayaks and canoes stored. The final plan should address, with a layout, how this area will be increased while moving some of the boats/racks, back away from the shoreline.

SH next inquired as to the next steps. MM noted it was too late for the 8/17 meeting maybe the 9/7 meeting if the association files by 8/22/16. After discussing what materials are needed for the 9/21 meeting that it would be the meeting target date. Abutters can use certified list and certificate of mailing. JR do we need clarification of type and density of vegetation? KJ said just identifying the areas that were examined that need work would be sufficient. MM noted the deadline for submission is 9/6/16.

## **2. Lunenburg High School Turf Field Proposed Notice of Field Change**

Documents presented were : Plan entitled Lunenburg Middle/High School Dated November 14, 2014, 30 scale by Tappe Associates.

David Warner(DW) representing Lunenburg School Dept.. DW presented rendering showing existing and proposed conditions. He outlined where the wetland was in relation to the site. Noted

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grading for the track and resurfacing the track with rubber granules and will extend the life of the track. The turf field needs to be replaced. DW explained the EPDM material being used per BP's request. Noted access is outlined out of buffer and that there will be a preconstruction site walk to emphasize.

JR inquired where the trench drains go. DW noted the existing drains will be maintained and goes to existing outfall. RB inquired if there will be any excavation will be required. DW noted no excavation nor additional material being brought in unless any replenishment is needed. Any material transfers will not be accessed in buffer zone.

JR inquired as to the parking area drainage. DW reminded the commission about the mitigation from the existing OOC. DW noted reviewing history. RB requested wattles in turn 2. DW noted that the pitch goes into the field and not towards the wetland. KJ examined the contours in the area of the track. DW noted the wattles in effect would be uphill BP and KJ noted the opinions wattles are not necessary.

Tb moved and KJ seconded unanimous with MM outlining in the approval notice why the change was necessary.

#### **Enforcement:**

- **101 Pleasant Street Continuation & request for extension**

*Document presented for consideration: Plan entitled "Restoration Sketch, 101 Pleasant Street Lunenburg, MA " Plan number 13621 with a scale of 1inch = 50 feet with a date of 8/2/2106. Not signed as it was a draft plan.*

#### **Jamie Rheault (JaR) representing the applicant/owner.**

JR requested clarification of what happened over the last few months. He noted fining and denying OOC based on insufficient information. JaR commented that he had been in touch with RB and that he understood that Jamie Rheault was not coming back to commission until replication plan was complete.

Based on MM's recommendation that the area may have been over-delineated, JR accelerated the plans based on Dan Gardner's (DG) request. JR noted for the town land that DG would pay for the design and work. JR noted Adam was doing an RFP and when that is complete they can speak for the town and DG will pay all expenses. JR asking to handle the remaining issues by the EO and not an NOI refile and asked for reconsideration of fines and extension of OOC.

RB felt that there has been some communication issues on both sides. Citing e mails, RB noted DG is being fined on both properties. RB clarified the fines prior to the NOI are not negotiable. MM outlined history with Steve Eriksen (SE), Mr Gardner's Wetland Consultant . KJ noted it is not commission's responsibility for but the -client's to not notify his engineer. KJ appreciated the fact JR did so much work and that it lies on client not commission or engineer and we've acted appropriately. RB is not comfortable going forth without a new NOI. JR echoed KJ's argument. RB said maybe they could suspend fines from night he did not appear on July 6 moving forward. KJ in favor from Aug 3 forward. CL agrees with 8/3.

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JR motion fines stay in effect from 7/6 until 8/3 and suspended starting 8/3 conditional upon performance or they will resume.

Paula Bertram (PB) noted that frustration is understandable but the engineer is here and the project needs to move forward and agrees with RB proposal for suspending fines from 7/7. CL asked Jamie Rheault if we don't suspend the fines, is the plan off the table? JR noted it's not off but we don't want to continue confrontation. Bob Pease (BP) wanted to understand where JaR was at the last meeting. JaR said he didn't know. CL he feels fines are legit and we can re-visit fines and compromising. JaR again requested to hold fines after NOI in abeyance. He stated he would agree to time frame. BP not suspending the fines may not be in best interests of environment and moving forward.

CL is concerned it took a month maybe we can reduce the fine levels to 100 dollars a day from the 6th until now. JR would support if we would have plan for next meeting. MM noted support of RB and PB. RB recommended to suspend the fine during time line. BP moved to suspend fines effective tonight and advise DG further reductions require written request. CL seconded. TB asked if it was reasonable to JR. JR said it was fine. RB asked for letter from DG allowing for JR to negotiate fines and act in his stead. There was a unanimous vote to approve the motion.

JaR presented plans. He outlined culvert calcs recommending twin 36 inch pipes. The 24 inch culvert needs to be removed. Invert lowered by a foot. Needs to armor by discharge to prevent erosion. JR noted that a construction estimate would be submitted for a bond. JR outlined remedial actions along all portions of gravel path. TB expressed concerns that there may not be remediation in the 3 year period. KJ why wouldn't we do all remediation except gravel road? RB noted the plan was to remove excess fill in buffer zone and revegetate in the buffer. RB expressed concern about ATV activity would like to see barriers to prevent. RB would like to see gravel hole graded and revegetated and shown on plan. RB feels that the wetlands by the gas line easement are connected and would like to see it noted and added. TB how wide is a logging road? MM noted it's not necessarily width its more about temporary versus permanent. TB maybe we could regulate width and require removal of the remainder resulting in minimal damage. TB wants the stabilization completed on sides before any further work can begin. RB clarified that the remediation is going to happen after logging is done. TB can we do site walk prior to next meeting. JR we can submit and then continue and do a site walk after the NOI is submitted. The NOI is to be submitted for the Sept 7th meeting.

RB recommended extended to the 9/21/17. CL moved to extend to 9/22/17, JR 2nd and there was a unanimous vote to approve.

- **190 Electric Avenue, Continuation & request for extension**

**Jamie Rheault (JR) representing the applicant/owner.**

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190 Electric will require an update as to working with the town land. KJ asked if the commission suspend fines? CL moved to suspend fines effective today. JR 2nd. The Commission approved the motion unanimously. There are 2 weeks to work with town. PB noted the town is using pre-existing conditions plan as put in RFP. Town Admin and PB will work with JR. KJ extend EO until 8/17/16. CL clarified that Gardner is offering to pay engineering and all expenses. CL seconded. The Commission voted to approve unanimously.

- **189 Howard Street , Continuation**

**Albert Jacobson representing himself and Donna Jacobson (AJ)**

MM recited file history to date. AJ noted that he will pull the material out the proposed a date of Sept 18th. CL noted he was concerned that the materials to be removed are not clear enough. MM agreed and suggested a site walk this coming Sat. MM and RB will walk tomorrow (8/4/16) at 3pm. TB motioned to continue until 21st. conditional to work being complete by a 9/18 site walk. KJ seconded and the commission approved unanimously

- **460 Lancaster Ave**

**William Mosso representing himself (WM)**

WM outlined the fact that there was a wall being built and spoke of the fact he felt there was a misunderstanding. RB noted the history of the discovery of the wall and Jack Rodriquez involved on behalf of DPW noting a potential right of way issue. It was noted that despite WM claiming DPW gave him permission to build in a right of way Mr. Rodriquez had indicated in a phone conversation to MM such was not the case.

RB noted that he will have to file a RDA for the determination. MM will assist. RB outline limits of jurisdiction and no touch versus no structure zone. WM will see MM to review forms.

- **183 Peninsula Drive**

Document used in presentation was the original conservation commission office file with the Order of Conditions and a Photo submitted by Matthew Marro taken July 20, 2016

**Al Leger representing himself ( AL)**

AL explained a wall repair he completed and that he replaced rip rap with stone dust covering it to promote grapevine growth. He noted that grapevines are covering the stone dust. MM presented the original file to the commission. MM noted that the EO would still be in effect to see the area stabilized. RB noted a preference for another type of ground cover. MM recommend to remove the dust and restore to rip rap. JR asked if the document was recorded. MM went to the registry of deeds website and noted it was not. MM will produce a duplicate document. Motion to direct Mr. Leger to remediate area described by MM prior to meeting on the 17<sup>th</sup> by TB and CL seconded. The Commission voted unanimously to approve.

## **Current Business**

1. **Signatures on documents to be issued.**

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TB requested to move signatures items to the end of the agenda – the Chair approved.

## **2. Certificates of Compliance -none**

### **New Business –**

1. **Enforcement Tracking** CL was asking about EO tracking and looking to keep open EO's on docket.

2. **Election of Officers**

TB wants all members present and wants to continue the item. PB asking to consider having a clerk and what would the function be. CL clarified what a secretary was based on BP's question. It was agreed to not act on the matter at this time.

### **Old Business –**

1. **Hickory Hills chemicals update**

MM noted that benthic barriers were paced and it seems to be working however he is waiting for test results. BP will check with Hickory Hills. Update on action items

2. **LISC Algae treatment, plan updates**

RB treatment was the 28th of July . MM, RB, CL AND KJ went out on the water and did sampling. North Basin treated like its own lake Dominic treated half of the lake. Clarity mildly improved but did not in the inlet. It was noted that there was a second date of the 11th of August in case another treatment was needed.

3. **Regulatory Review**

CL noted that maybe the commission should have a workshop type meeting eventually to concentrate on this issue only. Commission did not act.

### **Approval of Minutes**

#### **Approval of Minutes** *Meetings from 11/18 to present*

TB moved to approve July 20th CL seconded all approved except JR (Abstained).

Jan 6 TB Moved to approve KJ seconded all approved of motion except (BP - abstained)

Jan 20th TB Moved to approve KJ seconded all approved of motion except (BP - abstained)

2/3 Commission :as amended TB Moved to approve KJ seconded all approved of motion except (BP - abstained) Amended was for the procedure of notification of changes to regulation to certificate of mail

2/17 Commission :as amended KJ Moved to approve TB seconded all approved of motion except (BP - abstained) amended was for the addition of bullet points to the unitil hearing

3/2 Commission : KJ Moved to approve TB seconded all approved of motion except (BP - abstained)

3/16 CL moved to approve TB second all approved of motion except (BP - abstained)

4/6 – KJ moved to approve JR seconded and the commission approved unanimously ( BP and TB abstained)

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4/20 –CL moved to approve JR seconded all approved of motion except (BP - abstained)

5/18 As amended CL moved to approve KJ seconded all approved of motion except (BP - abstained)  
Amended was to correct 33 Sunset Lane to 338 sunset Lane

6/1 As amended CL moved to approve KJ seconded all approved of motion except (BP - abstained)  
Amendments clarified the language of the Lake Shirley meeting and changed the term Video set up to AV presentation of plan

6/15 KJ moved to approve CL seconded and the commission approved unanimously ( BP and TB abstained)

7/6 As amended CL moved to approve KJ seconded all approved of motion except (BP - abstained)  
Amendment was : Clarified language of the fine schedule

**Committee Reports –Holman St property program**

Lane property on 8/13 & 27, 9/4 & 9/18 TB is available to do trail work at the property on Holman Street

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**Communications**

**Agents Report**

**Action items:**

\* Hamberg, Basin cleaning

MM is waiting for a copy of the manifest from 9/2015 to be delivered to office by the end of the week.

\* Placing liens on property under enforcement

In response to a question from the commission, MM was informed by Adam Burney the only town counsel can place a lien.

\* Kinder Morgan Access

MM was informed by Kinder Morgan they will grant access, however, they will be requesting further information and will likely have a damage control inspector on site.

**Meeting Schedule- Next meeting for August 17, 2016 at 7:00 PM In the Town Hall, Billotta Meeting Room 2<sup>nd</sup> Floor.**

**Public Comment For Meeting Close.**

**Adjournment**

TB moved to adjourn. CL seconded and the commission voted unanimously to adjourn at 1143 PM.